

### **REMARKS**

Claim10 has been rejected under 35 U.S.C. §112, second paragraph. The claim has been cancelled to obviate this rejection.

Claims 1, 2, 4-6, 10-13 have been rejected under 35 U.S.C. §102(b) as being anticipated by Pollitt, WO 98/44033. Claims 1-8, 10-16 have been rejected under 35 U.S.C. §102(b) as being anticipated by Pollitt, GB 2,322,630. Additionally, claims have been rejected under 35 U.S.C. §102(b) as being anticipated by Pollitt, WO 98/21159.

The Examiner's rejections are respectfully traversed.

As amended, the Applicant's invention is directed to settable mixture comprising polybutadiene, a flow-enhancing liquid, and dry particulate matter. The dry particular matter includes no more than 2% water and from zero to 2% Aluminium Oxide, and from zero to 1% Ferrous Oxide.

It is important in the Applicant's mixture that there be no more than 2% aluminium oxide and no more than 1% of the ferrous oxide based on weight of the sand. The specific low percentages have been determined when the Applicant required a solution to a problem of the Applicant's originally constituted product. Specifically, after the product has been stored in vacuum-sealed bags for some four to five weeks, it was found that when used an undesirable oily sheen was left on the paving elements with which the mixture was used for pointing. Additionally, the setting times for the mixture increased dramatically from two and half hours to seven or eight hours. This is particularly undesirable since the compound "cures" upon exposure to the atmosphere, and it can not be subjected to rainfall until it has cured. Thus, the longer setting time makes it more difficult to use in conditions where rain may be expected.

The staining of the pavement is an unacceptable problem and thus the Applicant overcame the problem by using sands with aluminium content of less than 2% by weight and ferrous oxide content of less than 1% by weight.

On the other hand, the three cited references do not suggest or disclose the chemical compound as defined in the claims. None of the references mention the aluminium oxide or ferrous oxide content of the particular material. Additionally, at the times when those references were filed, there was no knowledge of the Applicant's problem and thus, no solution to the problem.

As independent claim 1 is patently distinguishable from the prior art references, the remaining claims dependent therefrom are also patently distinguishable.

In view of the foregoing, it is believed that the amended claims and the claims dependent there from are in proper form. The Applicants respectfully contend that Pollitt, WO 98/44033, Pollitt, GB 2,322,630 and Pollitt, WO 98/21159 do not anticipate the claimed invention under the provisions of 35 U.S.C. § 102(b). Thus, claims 1-9 and 11-13 are considered to be patently distinguishable over the prior art of record.

The application is now considered to be in condition for allowance, and an early indication of same is earnestly solicited.

Respectfully submitted,



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